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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,755	01/07/2002	Philip Bednarz	PX8S.261CIP2	3208
40581	7590	12/01/2005		
CRAWFORD MAUNU PLLC 1270 NORTHLAND DRIVE, SUITE 390 ST. PAUL, MN 55120			EXAMINER HONG, HARRY S	
			ART UNIT	PAPER NUMBER
			2642	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/041,755	Applicant(s) BEDNARZ ET AL.	
	Examiner Harry S. Hong	Art Unit 2642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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4. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yacenda et al. (Yacenda; US 5,822,418; previously cited and applied) in view of Munday et al. (Munday; US 6,480,593 B1; cited previously but applied for the first time).

Regarding claims 1-24, the entire patent to Yacenda plainly teaches the claimed method and system for selecting an operating mode of a telephone system. Yacenda teaches the displaying of different operating modes responsive to the detection of at least one person at an operator position at column 23, line 1 – column 24, line 51. Yacenda plainly teaches the inactive-user conditions; i.e. the person is no longer within the predetermined area and the “do not disturb” status. Yacenda makes it a point to disable an operating mode in response to an inactive-user condition (see column 1, lines 44 – 64 and to the section entitled “DO NOT DISTURB FUNCTION” starting at column 16, line 55). Yacenda also plainly teaches identifying the detected person. Refer also to FIGs. 28-30 of Yacenda.

With respect to the new claim 24, Yacenda plainly and completely teaches such features at entire column 6.

Yacenda differs from claims 1-24 in that Yacenda is silent with respect to communicating via the Internet. However, Munday teaches another method and system for selecting an operating mode of a telephone system, responsive to the detection of a person, that is communicatively coupled to the PSTN and the Internet and communicating via the PSTN or the Internet in response to the first or second operating mode (see Fig. 5 and column 5, line 50 – column 6, line 6 of Munday). Yacenda already teaches a method and system that communicates via the PSTN. Therefore, it

would have been obvious even to one of ordinary skill in the art at the time of the invention to modify the method and system of Yacenda to also communicate via the PSTN or the Internet since providing such a choice was taught and motivated by Munday. Munday also teaches and motivates that the telephone devices can be a cellular telephone (see Figs. 1 and 5 of Munday).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 4, 11, 14, 18, and 24 have been considered but are moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry S. Hong whose telephone number is (571) 272-4785. The examiner is normally off on Wednesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on (571) 272-4788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Harry S. Hong

Harry S. Hong
Primary Examiner
Art Unit 2642

November 28, 2005